

**REMARKS:**

This is a full and complete response to the Office action dated July 29, 2008. Reconsideration of the claims is respectfully requested.

**STATUS OF THE CLAIMS:**

Claims 1-6 and 10-25 are pending in this application, claims 7 - 9 are cancelled. With this amendment, claims 1 and 15 have been amended for clarification and Claims 11 and 22 have been rewritten in independent form. Applicants request reconsideration and allowance in view of the above amendments and the following remarks.

**REGARDING CLAIMS 11 AND 22:**

Applicants have rewritten claims 11 and 22 in independent form, and respectfully submit said claims are in allowable form as indicated on page 4 of the Office Action. Favorable action is respectfully requested.

**IN RESPONSE TO THE OFFICE ACTION:**

**REJECTION UNDER 35 U.S.C. § 103:**

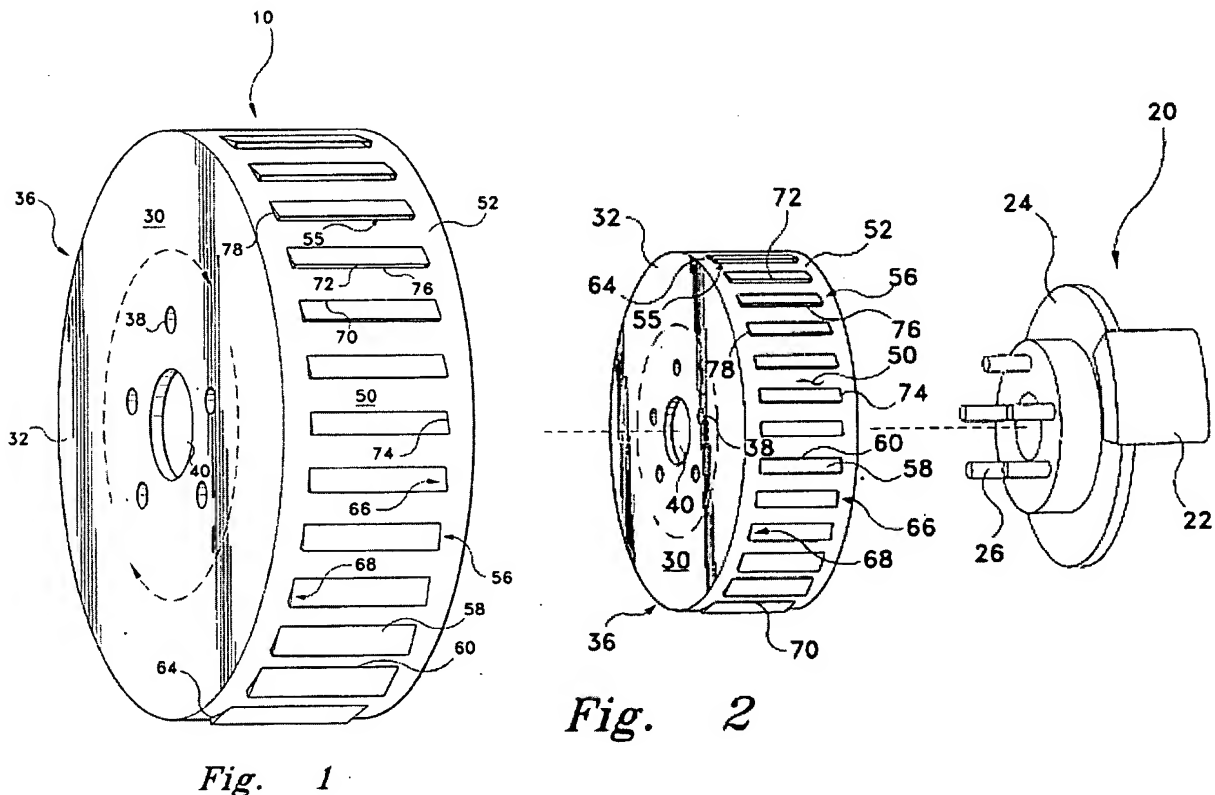
Claims 1-6, 12-21, and 23-27 stand rejected under 35 USC §103(a) as being unpatentable over Barger, US 6,155,650 (hereinafter "**Barger**") in view of Baba et al., US 4,593,953, (hereinafter "**Baba**"). Applicants respectfully traverse this rejection.

The Examiner asserts that **Barger** discloses a protector for a brake disk according to the present claims except the reference fails to disclose wherein at least one protection means is at least partly constructed from material that is shape-influenced by heat. Accordingly, the Examiner asserts that **Baba** teaches the use of a protection means that is shape influenced by heat and concludes that it would have been obvious to one of ordinary skill in the art to merely use the known shape-influenced by heat protection means into the device of **Barger** in order to restrict the opening of the protection means to only when the temperature is high.

Applicants note that claims 1 and 15 have been amended to remove the phrase "at least partly," and accordingly, claim 1 recites "wherein said at least one protection means (13) is

constructed from material that is shape-influenced by heat” and claim 15 recites “said shield being constructed from temperature reactive material characterized by being shape-influenced by heat.” Moreover, claim 25 has been amended to recite “at least one protection cover being constructed from material that is shape-influenced by heat.” Applicants respectfully submit that **Barger** either alone, or in view of **Baba** does not disclose or suggest the amended claims.

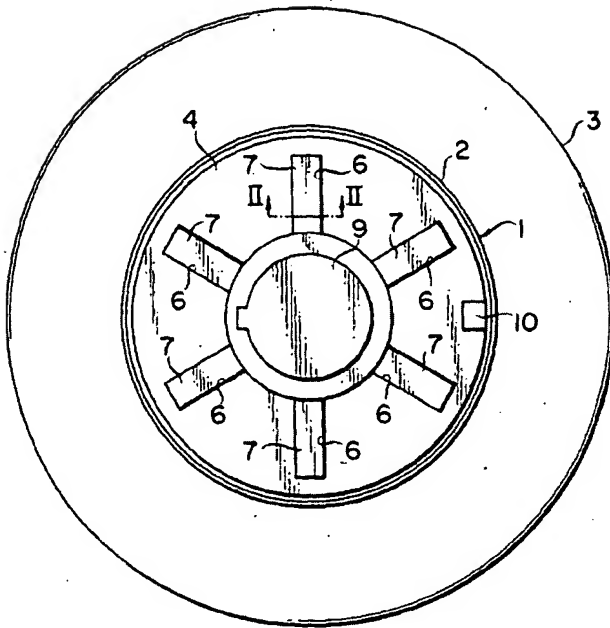
For convenience, Applicants provide Figs. 1 and 2 of **Barger** as follows:



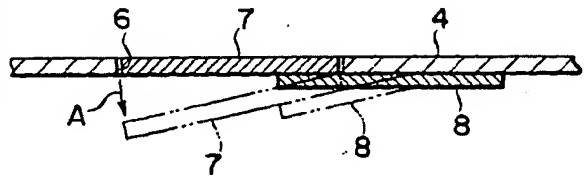
In the above it is shown a cooling device 10 which is positionable between a wheel and a brake assembly 20 having a rotor 24. *Barger*, col. 2 line 66 to col. 3, line 10. It is the Examiner’s position that plurality of louvers 56 discloses “at least one protection means” of the present claim 1. *Barger*, col. 3, lines 26-30. As noted above the Examiner indicates that **Barger** does not disclose a protection means being at least partly constructed from material that is shape-influenced by heat and therefore looks to the reference **Baba**.

Applicants provide Figs. 1-2 of **Baba** as follows:

**FIG. 1**



**FIG. 2**



**Baba** discloses that a closing plate 7 for opening and closing the openings 6 is provided at each of the openings 6. *Baba, col. 3, lines 16-21.* **Baba** further discloses that plate 7 is supported by a heat sensing member 8 which deforms in response to change of temperature around or inside the wheel cover. *Baba, col. 3, lines 21-23.*

Applicants respectfully submit that plate 7 and heat sensing member 8 do not disclose or suggest the present claims. As noted above, claim 1 recites that the protection means is constructed from material that is shape-influenced by heat. However, plate 7 is not constructed from a material that is shape-influenced by heat, whereas only member 8 of *Baba* deforms in response to heat change. Accordingly, plate 7 does not disclose or suggest the present claim 1, nor claims 15 and 25 for the same reasons.

In view of the above, Applicants respectfully request the above mentioned rejection be withdrawn.

**REJECTION UNDER 35 U.S.C. § 103 – IN VIEW OF YANAGI:**

Claim 10 stands rejected under 35 USC §103(a) as being unpatentable over Barger in view of Baba as applied to claim, and further in view of Yanagi, JP 59-47531, (“Yanagi”).

Applicants respectfully reassert the remarks made above with respect to Barger and Baba. Applicants submit that Yanagi does not remedy the deficiency in disclosure of the Barger and Baba, and therefore the references taken alone or in combination do not disclose or suggest claim 10. Accordingly, it is requested that the above mentioned rejection be withdrawn.

In view of the foregoing, however, Applicants submit that all claims are in condition for allowance, and timely Notice to that effect is respectfully requested.

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The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application.

The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 14-1437, referencing Attorney Docket No.: 7589.187.PCUS00.

In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner may directly contact the undersigned by phone to further the discussion.

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Respectfully submitted,

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